

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

THE UNITED STATES OF AMERICA

PLAINTIFF

VS.

CIVIL ACTION NO.: 3:16CV622-CWR-FKB

THE STATE OF MISSISSIPPI

DEFENDANT

MOTION FOR CONSOLIDATION

Under Fed. R. Civ. P. 42(a), the State of Mississippi (State) moves to consolidate this case with *Troupe, et. al. v. Barbour, et. al.*, No. 3:10cv153, (S.D. Miss., March 10, 2010).

1. This matter involves common issues of fact and law with *Troupe*. Both lawsuits involve nearly identical *Olmstead* challenges against the State of Mississippi. Both are filed in the Southern District of Mississippi. The Department of Justice is actively involved in both, having initiated the instant proceeding and having filed “Statements of Interest” in *Troupe* in support of the plaintiffs. Any remedy that may ultimately come out of either litigation will necessarily overlap with any proposed remedy from the other. While *Troupe* involves children and this matter involves adults, there is no legitimate dispute that any alleged needed changes in the State’s care of individuals with mental illness would necessarily involve changes for the care of both children and adults.

2. Under Rule 42(a), the court may consolidate actions that involve a “common question of law or fact.” As many as eight different factors may be considered by the Court in determining if consolidation is appropriate. Here, all eight factors favor consolidation.

3. For these reasons, discussed in more detail below, the State respectfully requests that the Court consolidate this matter with *Troupe*.

4. This Motion is based on the State’s supporting Memorandum and the following Exhibits:

Exhibit 1: Letter from Gupta to Hood (August 8, 2016).

Exhibit 2: Press Release (August. 11, 2016).

5. Pursuant to Local Rule 7(b)(10), the State has conferred with the United States and the *Troupe* plaintiffs as to this motion. The United States objects to consolidation, and the *Troupe* plaintiffs state that they have no position on whether the Court consolidates the two actions.

Request for Relief

This matter should be consolidated with *Troupe*. Both lawsuits involve nearly identical *Olmstead* challenges against the State of Mississippi, both involve the United States and the State, both involve similar witnesses and evidence, and there is a distinct threat for inconsistent results. Consolidation is appropriate.

The State of Mississippi respectfully requests that the Court consolidate this matter with *Troupe, et. al. v. Barbour, et. al.*, No. 3:10cv153, (S.D. Miss., March 10, 2010).

THIS, the 24th day of October, 2016.

Respectfully submitted,

PHELPS DUNBAR LLP

BY: /s/ R. Gregg Mayer

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CERTIFICATE OF SERVICE

I certify that on October 24, 2016, I electronically filed this document with the Clerk of the Court using the ECF system, which sent notification of such filing to all ECF counsel of record in this action.

/s/ R. Gregg Mayer
R. GREGG MAYER